

ATTACHMENT 2

Title 2. California Public Employees' Retirement System NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to add Article 8.1 entitled "Terminated Agency Pool Asset Allocation Strategy" in Title 2 of the California Code of Regulations. Sections 590 would be added to Article 8.1. This proposed regulatory action pertains to all terminating contracting agencies, county offices of education, school districts, and community college districts, as well as all assets currently in the Terminated Agency Pool (Pool).

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on October 24, 2011. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 795-4607; email at James_Croft@calpers.ca.gov; or mailed to the following address:

James Croft, Regulations Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, California 94229-2702
Telephone: (916) 795-9528

III. PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Benefits and Program Administration Committee:

December 13, 2011
Upon conclusion of the Benefits and Program Administration
Committee
California Public Employees' Retirement System
Auditorium, Lincoln Plaza North
400 Q St.
Sacramento, California 95811

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IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

V. AUTHORITY AND REFERENCE

The CalPERS Board of Administration (Board) has general authority to take regulatory action under Government Code Section 20121. This action would implement, interpret, and make specific Government Code sections 20570-20593 and 20174.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Due to the way the Terminated Agency Pool (Pool) is currently funded, there is a risk that CalPERS will not be able to meet its obligation to its members at some point in the future if some of the actuarial assumptions are not met. Although the Pool currently remains overfunded, the termination of one employer (or a number of smaller employers) with liabilities in excess of \$500 million could significantly dilute the funded status of the Pool and substantially increase this risk.

At the August 2011 meetings the CalPERS Board adopted in concept to change the investment policy and asset allocation strategy for the existing assets in the Pool to reflect and match the characteristics of future expected benefit payments of the Pool.

The proposed regulations are intended to provide the ability to CalPERS to credit the Pool with income and interest earned on those assets in accordance with any strategic investment policy and/or asset allocation strategy determined by the CalPERS Board for the Pool

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business as it applies only to internal CalPERS operations.

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VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action would not place any mandate on local agencies or school districts.
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action does not impose costs or savings for any state agency.
- C. COST OR SAVINGS TO ANY ONGOING LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action does not impose costs or savings on any ongoing local agencies or school districts.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose nondiscretionary costs or savings on any local agencies.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.
- F. ADVERSE ECONOMIC IMPACT: The proposed regulatory action in combination with the CalPERS Board's decision to adopt an asset allocation strategy for the existing assets in the Pool that reflects and matches the characteristics of future expected benefit payments of the Pool may have an adverse impact on local economies where the local agency terminates its contract with CalPERS and does not have enough resources to fund the increase in termination costs, if any, associated with this regulatory action and the change in asset allocation. If there are increases in costs they may be offset by either 1) a reduction in benefits if the local agency does not pay the full termination costs or, 2) Savings produced by not providing ongoing pension benefits for future service.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA: The proposed regulatory action in combination with the CalPERS Board's

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decision to adopt an asset allocation strategy for the existing assets in the Pool that reflects and matches the characteristics of future expected benefit payments of the Pool may have an adverse impact on local economies where the local agency terminates its contract with CalPERS and does not have enough resources to fund the increase, if any, in termination costs associated with this regulatory action and the change in asset allocation. If there are increases in costs they may be offset by either 1) a reduction in benefits if the local agency does not pay the full termination costs or, 2) Savings produced by not providing ongoing pension benefits for future service. As a result, the local agency may raise taxes, which may impact the ability of local businesses to create jobs.

- I. EFFECT ON HOUSING COSTS: The proposed regulatory action in combination with the CalPERS Board's decision to adopt an asset allocation strategy for the existing assets in the Pool that reflects and matches the characteristics of future expected benefit payments of the Pool may have an adverse impact on local economies where the local agency terminates its contract with CalPERS and does not have enough resources to fund the increase, if any, in termination costs associated with this regulatory action and the change in asset allocation. If there are increases in costs they may be offset by either 1) a reduction in benefits if the local agency does not pay the full termination costs or, 2) Savings produced by not providing ongoing pension benefits for future service. Taxes may be levied on houses to fund the increase in termination costs.

IX. CONSIDERATION OF ALTERNATIVES:

The Board must determine no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

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X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Bill Karch
Actuarial Office
California Public Employees Retirement System
P.O. Box 942709
Sacramento, CA 94229-2709

Telephone: (916) 795-2856
Fax: (916) 795-2744
Email: Bill_Karch@calpers.ca.gov

Please direct requests concerning the processing of this regulatory action to James Croft, Regulations Coordinator, at the address shown in Section II.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulation Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to James Croft, Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at www.calpers.ca.gov under About CalPERS; Legislation, Regulations, and Statutes; Regulatory Actions; Current Regulatory Actions.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

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The Board may, on its own motion or at the recommendation of any interested person, modify the proposed addition to the regulations after the public comment period closes. It may amend CCR section 590 if the changes are sufficiently related to the original text so that the public could have anticipated them.

If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments, testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.